

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARVEY AUGUSTUS SURE  
CHIEF,

Defendant.

CR 13-72-GF-BMM

**ORDER**

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on January 25, 2017. Defendant admitted that he had violated the conditions of his supervised release by (1) failing to appear for a mental health counseling session, (2) by failing to appear for urinalysis testing, (3) by failing to report to his probation officer, and (4) by failing to notify his probation officer of a change in residence. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of three months, with 33 months of supervised release to follow. Judge Johnston also recommended that the Defendant be allowed to file a motion for early termination of his supervised release, if he completes 15 months of

supervised release without a violation.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commadore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 36 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of three months in custody, followed by 33 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 46) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 15th day of February, 2017.



---

Brian Morris  
United States District Court Judge